

**Federal Communications Commission
Washington, D.C. 20554**

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| In the matter of |) | |
| |) | CC Docket No. 02-6 |
| Schools and Libraries Universal Service |) | |
| Support Mechanism |) | |

**COMMENTS OF MONTANA INDEPENDENT TELECOMMUNICATIONS
SYSTEMS (MITS)**

BACKGROUND

Montana Independent Telecommunications Systems (MITS) provides services to rural telecommunications companies. Its members are Valley Telecommunications, Triangle Telephone Cooperative Association, Project Telephone Company, Nemont Telephone Cooperative and Central Montana Communications. The service areas of MITS' companies are primarily comprised of small rural farmsteads and communities dispersed across a large geographic area. They include four Native American reservations.

MITS supports the universal service principle of access to advanced telecommunications services for all schools and libraries. While acknowledging that applicants located in our nation's urban areas receive significantly more E-rate funding than their rural counterparts, MITS nonetheless favors adequate support to schools and libraries in urban areas and hopes that policy makers in urban areas will likewise favor adequate support in high cost areas.

MITS members have aggressively supported the Schools and Libraries Program since its inception. MITS companies worked hand in hand with other Montana partners

including the Montana Public Service Commission to provide leadership and education so that schools and libraries in our service areas could be connected to the global telecom network. Those early and aggressive efforts have paid off. Schools and libraries located in service areas of MITS companies have received over one third of the total E-rate funding for Montana, even though the MITS companies serve less than 8% of the total access lines in Montana. That funding has brought the benefits of technology to MITS area schools, including those located on or near Indian reservations in remote communities such as Box Elder, Rocky Boy, Harlem, Hays-Lodge Pole, Crow Agency, Poplar and Wolf Point.

Schools and libraries located within the service area of MITS companies are small, rural, isolated and have extremely limited resources. The E-rate program has assisted those schools and libraries to make more effective use of telecommunications. E-rate funding has allowed students at dozens of small rural Montana schools to join together, creating virtual classrooms through interactive video conferencing and distance education. By sharing students and faculty, small rural schools can consolidate resources and maximize educational offerings through technology. Simply put, the Schools and Libraries Program has made a positive difference for kids in Montana. MITS and its member companies fully support the E-rate program.

PRELIMINARY COMMENTS

Pursuant to the Notice of Proposed Rule Making and Order issued by the Federal Communications Commission (FCC) in CC Docket 02-6, the FCC requests comments on streamlining and improving the Schools and Libraries Universal Service Program in a

manner “consistent with section 254”. The expressed goals of the proceeding are (1) to consider changes that would fine-tune rules to improve program operation; (2) to ensure that benefits of the program are distributed in a fair and equitable manner; and (3) to improve program oversight to ensure that the goals of section 254 are met without waste, fraud, or abuse.

In light of the numerous parallel proceedings underway at the FCC, including continuing universal service and access reform, MITS urges the FCC to exercise caution when considering any changes to the School and Libraries Program that would increase its funding level. The FCC should delay any decisions that would result in increased funding requirements for the Schools and Libraries Program until the final funding requirements of the high cost support mechanisms are known.

While MITS agrees it is timely and appropriate for the FCC to examine the Schools and Libraries Universal Service Program in light of streamlining and improvements, MITS cautions that such an examination cannot be made independent of considerations of subsequent impacts on each of the universal service principles enumerated in Section 254. Section 254 of the Telecommunications Act of 1996 outlines specific universal service principles upon which both the Joint Board and the FCC shall base policies for preservation and advancement of universal service. Program changes that result in increased funding requirements may adversely impact funding for other universal service programs including high cost support. After all, it is the end users who ultimately fund all the universal service programs. MITS urges the FCC to be sensitive to rate impacts on end user customers.

COMMENTS REGARDING SPECIFIC PROGRAM IMPROVEMENTS

APPLICATION PROCESS

1. Eligible Services

On-Line Determination of Eligible Services

While an on-line computerized list of eligible services from which applicants could select specific products or services as part of their FCC Form 471 may improve program efficiency, system changes should be comprehensively tested prior to opening the application window. On-line reliability is especially important to rural applicants working with consultants and providers who travel hundreds of miles daily to meet with applicants on E-rate issues. It is imperative that applicants have access to on-line services without worries of being “timed out” or not having electronic access to information necessary to complete application forms.

Wide Area Networks

MITS urges the FCC to proceed with caution when considering rule changes in respect to Wide Area Networks. While the proposed changes may be beneficial to some applicants, rule changes may result in significant burdens on the availability of program funds for other applicants.

Wireless Services

MITS believes the current eligibility rules are competitively neutral. MITS supports expansion of wireless eligibility to include cellular telephone service used by school bus drivers. It is not unusual in Montana for children to travel by school bus thirty

or forty miles each way to and from school over secondary roads in remote areas during harsh weather conditions. Safety and education cannot be separated.

Voice Mail

MITIS agrees that voice mail is routinely used as a way of communicating with school and library staff for educational purposes. Therefore it should be an eligible service for E-rate funding.

2. Internet Access Bundled with Content

Expanding eligibility to include funding for Internet access bundled with content may not be consistent with the FCC's goal of "improving oversight over this program to ensure that the goals...are met without waste, fraud, or abuse". Without detailed cost analysis of the various components of a bundled Internet/content service offering, it may not be possible to determine whether the bundled package is more cost effective than individually priced Internet and content components.

3. Requests Including Eligible and Non-Eligible Services

MITIS supports the current 30% processing benchmark to determine funding when applicants submit funding requests that include both eligible and ineligible services. That threshold has not presented a burden to schools and libraries located in the service area of MITIS companies.

4. Compliance with the Americans with Disabilities Act

MITS does not believe that the Schools and Libraries Program is the appropriate context for certification requirements for compliance with the Americans with Disabilities Act.

5. Consortia

FCC rules should not discourage eligible schools and libraries from joining other entities in their communities to facilitate access to advanced services. Consortia should be encouraged provided universal service discounts are limited to eligible applicants. The proposed modification of the consortia rule will promote consortia within communities and encourage entities to work together to maximize access to advanced services.

POST COMMITMENT PROGRAM ADMINISTRATION

1. Choice of Payment Method

Applicants should be offered the option of either paying the full cost of services and later being reimbursed via the BEAR process or paying only the discounted amount with an initial billing. Service providers should be required to remit payments to applicants within twenty days of receipt. This would not impose significant economic burdens on small entity providers. In fact, failure to require timely reimbursement from service providers may create economic burdens on small schools and libraries.

2. Equipment Transferability

Applicants that transfer equipment obtained with universal service discounts to other schools or libraries within the same district that may not have been eligible for such

equipment adversely affect funding availability for all other applicants including small rural schools and libraries. MITS supports limiting equipment transfers for three years from the date of delivery and installation of equipment for internal connections other than cabling and ten years in the case of cabling. The alternative option of denying internal connections discounts to any entity that has already received discounts on internal connections within a specified period of years regardless of the intended use of the new internal connections creates a barrier for the most disadvantaged schools that for a variety of reasons may choose to provide connectivity in phases rather than at one time.

3. Use of Excess Services in Remote Areas

The state of Alaska has many remote areas and in many instances the school is the only Internet “point of presence”. It was therefore appropriate for the FCC to grant a limited waiver of the rules so that consumers living in remote Alaskan communities could have access to the Internet that they otherwise would not have had.

Montana is also a rural state with remote areas. In Montana, however, most consumers currently have access to the Internet. In fact, 140 rural Montana communities now have broadband access through DSL (digital subscriber line) technology.

There may be merit in the FCC’s proposal to revise rules pertaining to the use of excess services in remote areas. While not specifically addressing the issue now, MITS is continuing to analyze the effects of the proposed rule changes in our service areas. MITS will review initial comments filed by parties and may address the issue with our reply comments.

APPEALS

1. Appeals Procedure

Current FCC rules require appeals to be filed within 30 days of the date of the issuance of a decision. In some instances, schools and libraries located in areas served by MITS companies did not even receive copies of funding commitment letters within 30 days of the decision. We therefore support increasing the time limit for appeal to 60 days from the post-marked date of the decision.

2. Funding of Successful Appeals

Successful appeals should be fully funded to the same extent that they would have been funded in the initial application process, with funding distribution made in a predictable and timely manner. The Administrator should fund successful appellants in the order that decisions on appeal are issued with the FCC's suggested exceptions for Priority Two services.

ENFORCEMENT TOOLS

1. Independent Audits

While MITS supports FCC oversight to guard against waste, fraud and abuse, it is inappropriate to require all schools and libraries to bear the expense of independent audits. The result of such a rule may be that some small schools and libraries incur more expenses in an audit review than the monies they receive from the program.

2. Prohibitions on Participation

Applicants, service providers, and others that engage in willful or repeated failure to comply with program rules should be prohibited from participation in the program for a period of three years.

UNUSED FUNDS

Unused funds from one spending year should be carried forward into subsequent funding years to provide additional resources for affordable telecommunications services for schools and libraries.

Respectfully submitted this 5th day of April, 2002

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